

SUITABILITY REQUIREMENTS
FOR GOVERNMENT EMPLOYMENT

WHEREAS the national interests require that all persons privileged to be employed in the Federal Government, shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving allegiance to the United States; and

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WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the Federal Government be adjudged by consistent and uniform standards and procedures:

Now, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States including section 1753 of the Revised Statutes of the United States (5 U.S.C. 1970 ed. 3301 and 3701); the Civil Service Act of 1883 (5 U.S.C. 1970 ed. 1101 et seq.); section 9A of the Act of August 2, 1939 (5 U.S.C. 1970 ed. 333 and 7311); and the Act of August 26, 1950 (5 U.S.C. 1970 ed. 7501 et seq.); and as President of the United States, and deeming such action necessary in the best interests of the national security and welfare, it is hereby ordered as follows:

Section 1. Executive Order No. 10450 of April 27, 1953, as amended, is hereby revoked.

Section 2. In addition to the departments and agencies specified in the said act of August 26, 1950, and Executive Order No. 10237 of April 26, 1951, the provisions of that act shall apply to all other departments and agencies of the Government.

Section 3. There shall be established uniform Federal civilian personnel suitability investigation and adjudication programs, operating within the administrative oversight procedures of the Civil Service Commission and policy directives issued by the Domestic Council.] In furtherance of this program, the head of each department and agency of the Government, as defined in 5 U.S.C. 105, including the U.S. Postal Service, shall be responsible for establishing and maintaining a centrally managed personnel suitability selection and review system to insure that the employment and retention in employment of any civilian officer or employee is clearly consistent with the suitability standards prescribed by this order.

Section 4. The appointment or retention of each civilian officer or employee in any department or agency is contingent upon meeting the suitability standards promulgated by the Civil Service Commission. The standards which must be applied to determine whether a person is suitable for appointment or retention in any position in the Federal service is whether such appointment or retention will promote the efficiency of the

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service, and whether a person is trustworthy and therefore capable of discharging responsibilities of the position in a manner which will assure that appointment or retention would be clearly consistent with the national interest.

Section 5. (a) Whenever the responsibilities of a civilian position in the Federal Service fall within the general categories of activities cited in (a)(1) or (2) of this section, it must be designated as a Position of Special Trust. Such designation will be made only by the heads of departments, agencies or major organizational components created by statute, or as delegated to a limited number of designees. The procedures and criteria for establishing Positions of Special Trust, to include designating levels of sensitivity within the major categories as detailed in Civil Service Commission guidance, [and] shall pertain to the two general categories of Positions of Special Trust cited below:

specify

✓ (1) National Security: Those activities involving access to classified information or which are directly related to military security, foreign ^{affairs} ~~(policy)~~ or intelligence including the protection of the government against espionage, sabotage, subversion and any other illegal acts that adversely affect the national defense, such as those activities which are directly concerned with the protection of the Nation from internal subversion or foreign aggression.

(2) National Welfare: Those activities which are directly related to domestic order and the economic and productive strength of the Nation, including the implementation of the plans and policies of major government programs as well as the enforcement of rules, regulations or law and

of the United States such as those activities which are directly concerned with the protection of the Nation's domestic and economic welfare.

(b) The heads of organizations referred to in subsection (a) of this section, with respect to Positions of Special Trust:

(1) shall maintain a central record of all such positions and annually certify the accuracy of designation of such positions to Civil Service Commission;

(2) shall certify in the records of the organization concerned the accuracy of the position designation at the time of filling each separate position;

(3) shall approve any change to a higher degree of sensitivity for individual positions; and

(4) may delegate authority to a limited number of individuals to redesignate positions to a lower category of sensitivity when the particular circumstances so warrant.

Section 6. (a) The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to an investigation conducted for the purpose of developing information relevant to determining whether such appointment is consistent with the applicable standards specified in section 4 of this order.

(b) The scope of the investigation shall be prescribed by the Civil Service Commission but in any event shall include (1) no less than a national agency check (including a check of the fingerprint files of

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the Federal Bureau of Investigation), and where appropriate written

inquiries to appropriate local law enforcement agencies, former employers and supervisors and references; and (2) with respect to employment in Positions of Special Trust, sufficient personal investigation, prior to appointment, of the individual's conduct and character to determine whether the individual meets the standards prescribed in section 4. However, upon request of the head of department or agency concerned, the Commission may, in its discretion, authorize such less investigation as may meet the requirements of the national security or welfare with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States.

(c) Should there develop at any stage of either type of investigation mentioned in (b) of this section information indicating that the employment of any such person may not promote the efficiency of the service or may not be consistent with the national security or welfare, the investigation shall be expanded to the extent necessary to enable the head of the department or agency concerned to determine whether the individual is suitable for employment or retention in employment in accordance with the applicable standards specified in section 4. There shall be referred promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information indicating that an individual may have been subjected to coercion, influence, or pressure to act contrary to the interests of national security as defined in section 5(a)(1) of this order.

(d) In case of an emergency, a Position of Special Trust may be filled for a limited period by a person with respect to whom a personal.

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investigation has not been completed if the head of the department or agency personally finds that such action is necessary in the ^{interests of} national security or welfare. Such determination may be delegated to the limited number of individuals identified in section 5(a) or 5(b)(4) of this order and shall be made a part of the records of such department or agency. If such a position is filled on this basis the investigation must be completed within 90 days from date of waiver.

(e) Persons conducting investigations authorized under this section are authorized to seek information from any source, including but not limited to:

- (1) the person being investigated;
- (2) the parent(s) or guardian(s) of the person being investigated;
- (3) school records;
- (4) federal, state, and local official government records, including arrest records, court proceedings and probation records regarding criminal offenders;
- (5) employment records;
- (6) medical records; and
- (7) personal references.

*suggest more
general language -*

The criminal offender information which the department or agency head concerned or his designee is authorized to obtain under this section includes, but is not limited to, all criminal history relating to arrests, detentions, indictments, informations, or other formal criminal charges, any disposition arising therefrom, sentencing, and correctional supervision and release.

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(f) The investigation of persons entering or employed in the Federal service, including experts and consultants however employed, shall primarily be the responsibility of the Civil Service Commission, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or by agreement with the Civil Service Commission. A full report of investigation or notification of satisfactory completion thereof shall be furnished to the department or agency responsible for making the suitability determination.

(g) Legislative, judicial, and quasi-governmental agencies that require investigations similar to those prescribed in this order may contract to use the investigative facilities of the Civil Service Commission.

Section 7. (a) As provided by section 4 of this order, the Civil Service Commission, or such head of a department, agency or major organizational component, that the Civil Service Commission designates, may deny an applicant examination, deny an eligible appointment and remove an appointee when such action will promote the efficiency of the service based on suitability standards promulgated by the Civil Service Commission.

(b) In addition, for Positions of Special Trust, agencies may apply the following additional standards as they relate to the specific position in question: *there are criteria*

(1) any facts, circumstances, or conduct which furnish reason to believe that the person concerned may be subjected to coercion, influence, or pressure which could cause him to act contrary to the national interest;

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(2) any facts, circumstances or conduct which indicates poor judgement, unreliability or untrustworthiness suggesting that the person concerned might fail to safeguard classified information, deliberately *or otherwise perform his duties faithfully; and* or inadvertently; and

(3) any mental condition which may cause significant defect in the judgement or reliability of the person concerned. *manus*

(4) *Willful* (Wanton) or reckless disregard of public law, statutes, Executive Orders or security regulations.

(c) Any adverse determination under this section must be based on all available information which is pertinent in any individual case, including, but not limited to, such factors as:

(1) The kind of position for which the person is applying or in which the person is employed, including its sensitivity;

(2) The nature and seriousness of the conduct;

(3) The circumstances surrounding the conduct;

(4) The recency of the conduct;

(5) The age of the applicant or appointee at the time of the conduct;

(6) Contributing social or environmental conditions;

(7) The absence or presence of rehabilitation or efforts toward rehabilitation.

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Section 8. Except as provided for in section 11, no person may be denied examination or appointment in the Federal Service by the Civil Service Commission or by the head of a department, agency or major

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organizational component for the reasons set forth in section 7, unless
the person concerned has been given:

- (a) a written statement of the potentially disqualifying information in sufficient detail to afford an opportunity to respond and offer comments or other evidence relative to the issues;
- (b) an opportunity to make such response;
- (c) a letter of notification of adverse determination citing the specific reasons upon which the determination is based; and
- (d) a written notification of the right to appeal the adverse determination to the Federal Employee Appeal Authority.

Section 9. Whenever there is developed or received by any department, agency or major component information indicating that the retention in employment of any officer or employee of the Government may be inconsistent with the standards set forth in section 4, such information shall be forwarded to the head of the employing department or agency or his representative, who, after such investigation as may be appropriate, shall review, or cause to be reviewed, and where necessary redetermine or cause to be redetermined such information in accordance with the provision of sections 7 and 10.

Section 10. Except as provided for in section 11, no person may be finally removed from a position in the Federal Service by the Civil Service Commission or by the head of a department, agency or major organizational component for the reasons set forth in section 7, unless the appropriate Civil Service Commission removal procedures have been followed. *or agency, if appropriate*

Section 11. Notwithstanding sections 8 and 10 or any other provision of this order, nothing in this order shall be deemed to limit or offset the responsibility and powers of the Civil Service Commission or the head of a department, agency or major component to find that employment of a person in a Position of Special Trust involving the national security is deemed not in the interest of national security in accordance with the procedures of P.L. 81-733. Such determination shall be conclusive. Any person whose employment is suspended or terminated under this authority shall not be reinstated or restored to duty or re-employed in the same department or agency [and shall not be reemployed in any other department or agency] unless the head of the department or agency concerned finds that such reinstatement, restoration or re-employment is consistent with the national security; such finding shall be made a part of the records of such department or agency. However, no person whose employment has been terminated under such authority may thereafter be employed by any other department or agency except after a determination by the Civil Service Commission that such person is eligible for such employment.

in case of other two agencies
Section 12. The Civil Service Commission shall prescribe minimum standards for the selection and training of Federal personnel investigators, adjudicators and investigative/adjudicative supervisory personnel.

Section 13. There shall be established and maintained in the Civil Service Commission an index covering all persons as to whom personnel suitability investigations have been conducted by the Civil Service Commission or any department or agency of the Government under this

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order. The index shall contain the name of each person investigated, adequate identifying information concerning such person, identification of the department or agency which has conducted an investigation concerning the person involved, a citation of the purpose of the investigation and a statement as to the action taken as a result of the investigation.

Section 14. Once a person's suitability for Federal Service has been determined under the provisions of the order, that person ^(need?) shall not be re-investigated for the purpose of determining suitability unless there is a break in service greater than one year or unless information becomes available which raises reasonable doubt as to whether that person continues to meet the applicable standard prescribed by section 4 of this order. However the head of a department, agency or major organizational component authorized to establish Positions of Special Trust may with respect to such positions designate those which shall require re-investigation of the incumbent 5 years after appointment, and once each succeeding 5 years, provided that such re-investigation, in the absence of potentially disqualifying suitability information, may be limited as a minimum to

- (1) requiring the incumbent to submit an updated statement of personal history to the appropriate office responsible for initiating such re-investigations, and
- (2) a review of the statement of personal history together with the personnel file of the incumbent, locally available previous reports of investigation concerning the individual, and any other locally available appropriate records.

Section 15. Any investigation conducted or adjudication made under this order shall give due consideration to the rights to privacy and to the

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fair, impartial, and equitable treatment of individuals. At the same time, the needs of the Government to employ those individuals most suitable and qualified must be met.

Section 16. Reports of investigation developed for the purpose stated in section 6 of this order shall, upon rendering of the final determination, be filed centrally at a place designated by the Civil Service Commission or by the head of the department or agency conducting the investigation, as the case may be, under conditions which will protect the privacy of the persons concerned and assure the security interests of the nation. The reports and other investigative material and information developed by investigation conducted under this order shall remain the property of the investigative agency conducting the investigation. Access to such reports will be controlled by procedures prescribed by the investigative agency concerned. Except as otherwise authorized by law or Executive Order, such reports shall not be made available for any purpose other than to administer the personnel suitability investigation and adjudication programs authorized by section 3 of this order or to compile management and statistical information necessary for the effective management of that program. ?

Section 17. In order to assure full and continuing compliance with the provisions of this order, the Civil Service Commission, with the advice of such departments and agencies as the Domestic Council may designate, shall effect a continuing review of the manner in which this order is being implemented by the departments and agencies and shall submit to

the Domestic Council an annual report with recommendations to correct any deficiencies in the program which are inconsistent with the national interests or the rights of the individual under the Constitution, the laws of the United States, or this order.

Section 18. In addition to the annual certification required in section 5(b)(1) of this order, each department and agency shall make an annual report to the Civil Service Commission on the waivers granted under section 6(d) and persons denied examination or appointment or removed under section 7(a) or (b) of this order, and such other matters as prescribed by the Civil Service Commission.

Section 19. This order shall become effective ⁽¹²⁰⁾ (thirty) days after the date hereof.